

**Amend Section 1609.5 of the Property Taxes Law to reimburse the Board for its full costs when employees are subpoenaed at assessment appeals hearings and update the reference from the executive secretary to the executive director.**

**Source: Property and Special Taxes Department and Legal Department**

Revenue and Taxation Code Section 1609.5 provides that an employee of the State Board of Equalization (Board) may be subpoenaed as a witness before a county assessment appeals board. The party requesting the subpoena is required to pay the Board two hundred dollars (\$200) per day for each day that such employee is required to remain in attendance pursuant to the subpoena.

The fee was first established at \$150 when Revenue and Taxation Code Section 1609.5 was added to the code in 1974. The \$200 amount was adopted by the Legislature in 1979, effective January 1, 1980 (Stats. 1979, Ch. 516). The fee of \$200 was intended to reimburse the Board for salary, travel and per diem expenses the employee incurred in responding to the subpoena. However, the fee has not been changed in over 23 years and it no longer reflects the Board's full costs.

Generally, when a public employee is subpoenaed, the public entity is fully reimbursed for its costs. (See Government Code Section 68097.2) It is therefore recommended that Section 1609.5 be similarly amended to allow the Board to recoup its full costs for employees subpoenaed to attend assessment appeals hearings, consistent with all other state employees and state agencies.

In addition, staff recommends that the title of "executive secretary" be changed to "executive director" to reflect the current title used by the Board as well as change the miscellaneous other references found in Property Tax Law.

*Section 1609.5 of the Revenue and Taxation is amended to read:*

1609.5. (a) Whenever an employee of the board is desired as a witness before a county board in a hearing on an application for reduction, a subpoena requiring his attendance may be served by delivering a copy either to the employee personally or to the executive ~~secretary~~ director of the board at his office in Sacramento.

~~(b) The employee shall attend as a witness as required by the subpoena, regardless of the distance to be traveled, provided the subpoena is accompanied by fees payable to the State Board of Equalization in the amount of two hundred dollars (\$200) per day for each day that such employee is required to remain in attendance pursuant to such subpoena. Such fees are to be paid by the party requesting the subpoena. The party at whose request the subpoena is issued shall reimburse the State Board of Equalization for the full cost incurred in paying the employee his or her salary or other compensation and traveling expenses as provided for in this~~

section, for each day that the employee is required to remain in attendance pursuant to the subpoena. The amount of two hundred dollars (\$200) payable to the State Board of Equalization, together with the subpoena, shall be tendered to the person accepting the subpoena for each day that the employee is required to remain in attendance pursuant to the subpoena.

(c) If the actual expenses should later prove to be less than the amount tendered, the excess of the amount tendered shall be refunded.

(d) If the actual expenses should later prove to be more than the amount deposited, the difference shall be paid to the State Board of Equalization by the party at whose request the subpoena is issued.

(e) The employee shall receive the salary or other compensation to which he or she is normally entitled during the time he travels to and from the place where the hearing is conducted and while he is required to remain at such place pursuant to such subpoena. He ~~The employee~~ shall also receive usual and customary travel expenses and per diem. ~~If the actual expenses should later prove to be less than the amount paid by the party, the excess shall be refunded by the board.~~

(f) In the event the employee is subpoenaed at the request of the applicant and the county board grants a reduction in the assessment, the county board may reimburse the applicant in whole or in part for the actual witness fees paid pursuant to this section.

(g) Any person who pays or offers to pay any money or other form of consideration for the services of any employee of the board required to appear as a witness, other than the compensation provided in this section, is guilty of a misdemeanor, and any employee who receives any such payment is guilty of a misdemeanor.

*Section 155 of the Revenue and Taxation Code is amended to read:*

155. The time fixed in this division for the performance of any act by the assessor or county board may be extended by the board or its ~~secretary~~ executive director for not more than 30 days, or, in case of public calamity, 40 days. If an extension of time is granted, the ~~secretary~~ executive director of the board shall give written notice thereof to the county auditor, county tax collector, and the officer or county board to whom the extension is granted. The ~~secretary~~ executive director shall inform the board at its next regular meeting of any action with respect to extensions taken by him. There shall be the same extension of time for any act of the board dependent on the act for which time was extended.

*Section 1841 of the Revenue and Taxation Code is amended to read:*

1841. When the review, equalization, and adjustment are completed, the ~~secretary~~ executive director of the board shall transmit to the auditor and the governing body of the taxing agency whose assessment is questioned, and to the applicant a notice of the action of the board with respect to the assessment. The

notice is prima facie evidence of the regularity of all proceedings of the board resulting in the action which is the subject matter of the notice. Upon receipt of the notice the auditor shall enter upon the local roll any change in the assessment resulting from the action of the board.